UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF ALABAMA
OFFICE OF THE CLERK
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MONTGOMERY, ALABAMA 36101-0711

DEBRA P. HACKETT, CLERK

TELEPHONE (334) 954-3600

May 23, 2008

NOTICE OF CORRECTION

From: Clerk's Office

Case Style: Hopper v. Graham

Case Number: 2:07cv00457-MEF

This Notice of Correction was filed in the referenced case this date to attach the correct PDF document previously attached to include the electronic signature and the PDF document of Exhibit A.

The correct PDF documents are attached to this notice for your review. Reference is made to document # 30 filed on May 23, 2008.

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

VIRGINIA HOPPER,)
)
Plaintiff,)
vs.) CIVIL ACTION NUMBER
) 2:07cv457-MEF
JACKIE GRAHAM, ET.AL.)
Defendants.)

MOTION TO QUASH SUBPOENA

COMES NOW a non-party Alabama Psychiatric Services, P.C. and moves this Honorable Court for an Order directing that the records and/or oral testimony of the nonparty as they pertain to VIRGINIA HOPPER remain confidential and that this Honorable Court issue an Order quashing the subpoena served upon the Movant requesting medical/psychiatric records related to the foregoing individual and for grounds would show as follows:

- 1. That your movant is not a party to this action and is a mental health services provider.
- 2. That pursuant to § 34-26-2, Code of Alabama, (1975); the Health Insurance Portability and Accountability Act of 1996, (HIPPA); and the psychotherapist privilege afforded by the United States Supreme Court to licensed psychiatrists in the case of Jaffe v. Redmond, 518 U.S. 1, 15, 135 L.Ed. 2d 337, 116 S.Ct. 1923 (1996), the records and testimony requested in this case contain information gathered pursuant to the movant's treatment and

Page Two Motion To Quash 2:07-cv0457-MEF

> assessment of VIRGINIA HOPPER and is therefore confidential information and is not subject to disclosure.

WHEREFORE, PREMISES CONSIDERED, your movant requests that this Honorable Court issue an Order quashing that certain subpoena served upon the movant in this case which is attached herewith as Exhibit A.

> /s/Stephen B. Griffin Stephen B. Griffin Attorney for the Movant ASB-9998-F64S E-mail:

OF COUNSEL:

Stephen B. Griffin & Associates 2100 River Haven Drive, Suite #1 Hoover, AL 35244-2532 Telephone: (205) 402-7476

Fax: (205) 402-7292

E-mail: steveg@griffin-assoc.com

CERTIFICATE OF CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion has been served upon counsel of record by electronic means this the 23rd day of May, 2008.

> /s/Stephen B. Griffin Of Counsel

SAOSE (Rev. 12/07) Submospa in a Civil Case

Issued by the UNITED STATES DISTRICT COURT

VIRGINIA HOPPER

V.

SUBPOENA IN A CIVIL CASE

DACRIE GMAHAM, ET AL,	Case Number: 2:-07CV457MEF
wanty in the soute case.	States District court at the place, date, and time specified below to
PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME
☐ YOU ARE COMMANDED to appear at the place, defin the above case.	te, and time specified below to testify at the taking of a deposition
PLACE OF DEPOSITION	DATE AND TIME
PLACE SEE ATTACHED	DATE AND TIME 6/5/2008 10:04 am
YOU ARE COMMANDED to permit inspection of t	he following premises at the date and time specified below.
PREMISES	DATE AND TIME
matters on which the person will testify. Federal Rule of Civil	
	rney for Defendants DATE
issuing officer's name, address and phone number Joana S. Ellis, Esq., Alabama State Personnel Departmet (334) 353-0046	nt, 64 N. Union Street, Montgomery, AL 36130;
(See Federal Rule of Civil Proc	edure 45 (e), (d), and (e), on next page)
	<u> </u>

1 If applies is pending in district other than district of issuance, state district under case number.

Received Time May 21. 4:41PM

DEFENDANT'S EXHIBIT CASE NO.

EXHIBIT NO.

PROOF OF SERVICE		
	DAIE	PLACE
SERVED		First Class U.S. Mail
SERVED ON (PRINT NAME)		MANNER OF SERVICE
served by (Print Name)		TITLE
	DECLA	ARATION OF SERVER
I declare under penalty n the Proof of Service is	of periury under the laws of	
I declare under penalty n the Proof of Service is Executed on	of periury under the laws of	ARATION OF SERVER The United States of America that the foregoing information contained
	of periury under the laws of	
	of perjury under the laws of true and correct.	Tthe United States of America that the foregoing Information contained

Federal Rule of Civil Procedure 45 (c), (d), and (e), as amended on December 1, 2007:

(e) Protecting a Person Subject to a Subforma.

(e) PROTECTING A PERSION SUBJECT TO A SUBFREEN.

(1) Avoiding Lindue Burden or Expense; Sanchers. A party or anomoly responsible for issuing and serving a subposens must take reasonable steps to avoid imposing undue burden or expense on a party or sanchou.— which may include lost earnings and reasonable attorney's fees—on a party or sanchou.— which may include lost earnings and reasonable attorney's fees—on a party or sanchou.— which may include lost earnings and reasonable attorney's fees—on a party or sanchous Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce a destronced produced in the party of a sanchous commanded to produce an expense in person is the place of production or inspection unless also commanded to appear for a deposition. Learning or trial.

(S) Objections. A party of the party of anomaly derignment in langifies things or to permit inspection to inspection in the party of a morney derignment in the pubpoons a written objection to inspection may serve on the party of anomaly derignment in the form of forms required objection to inspect party in an extend information is the form of forms required on the production in made, the following rules upply:

(f) At any time, on nector to the commanded person, the serving party may move the imaging court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a percy who is mainty as party not a party's officer from alguificant expense resulting from campiliance.

a sempliance.

(3) Questions or Madifying a Subposes.

(A) When Required. On nimely motion, the issuing court must speak or modify a

subposem that:

(i) fails to allow a restanable time to comply:

(ii) requires a person who is activer a party a calkest to wavel more than 100 miles from where that person resides, it employed, or regularly exanacts business in person—except that, subject to Rule 43(o)(3)(iii), one person may be constituted to intend a trial by reveling from any such place within the sates where the trial is just;

(iii) requires disclosure of privileges or other protected manuer, if no exception

waver applies; or

(B) When Permitted. To protect a person subject to or affected by a subposes, the setting court may, on modern, quest or modify the subposes if it requires:

(I) disclosing a made search or other confidential research, development, or connected information.

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute end results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial axhouse to mavel more than 100 miles to smend trus!

(C) Specifying Conditions on an Alternative. In the proportionical described in Rule 45(c)(3)(B), the court may, instead of quanting or modifying a subpoens, order appearance or production under specified conditions if the serving party:

A A A STORE (i) mual aced for the textimony or material that cannot be otherwise met without unduc hardship; and
(ii) educates that the subposmed person will be reasonably compar

(d) BUTTES IN RESPONDANC TO A SUBPORNA.

(1) Producing Documents or Electronically Stored Information. There procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpressa to produce documents unset produce them as they are kept in the ordinary applie of business or must organize and label them to correspond to the cutsequents in the decidant.

(E) Form for Producing Electronically Stored Information Nex Specified, if a subpress does not specify a form for producing electronically stored information, the person heaponsing must profuce it in a form or forms in which it is ordinarily maintained or in a feature of the person of the cutse of the person of the cutse of the cutse of the person of the pe

reasonably usuble form or forms.

(C) Electromosily Shored Information Produced in Only One Form. The period responding meet not produce the same electrodically stored information in more than one form.

(D) Essociatible Electrodically Sured information. The period responding need not provide discovery of electrodically sured information from sources that the period identifies so for reasonably accessible because of undue burden or tool. On motion to compel discovery or for a previous of makes burden or one, if that showing it made, the cast may nonetheless order discovery from such subrease if the requesting party shows good scales, considering the accessible because of makes birden or over. If that showing it ends, the court may nonetheless cader discovery from such saintees if the requesting party shows good cause, considering the limitations of Rule 24(b)(2)(C). The ocart may specify conditions for the discovery.

(2) Clearning Privilege of Protection.

(A) Information Withheld. A person widthelding subposessed information under a claim that it is privileged or subject to protection as bising-reperation material ment:

(I) expressly make the alake; and

(II) describe the meters of the withheld documents, communications, or tangible things in a measure that, without revealing information tracifyrivileged or protected, will exhibit the parties to easess the claim.

(B) Information Produced If information produced in recovers by the distance in

(B) Information Produced. If information produced in response to a subposes is (B) information Produced. If information produces in response or a suspecies is subject to a claim of privilege or of protection as trial-properties meterial, the person making the claim may notify any party that received the information of the claim and the beats for it. After being notified, a party must promptly round, sequency, or descroy the specified information and any copies it has; must not use or disclose the information to the little information and any copies it has; must not use or disclose the information to the party displaced it before being medified; and may wroundly dessess the information in the court under seal for a being notified; and may promptly present the information in the court under seal for e descriningion of the claim. The person who produced the information must proserve the information that the claim is resolved.

(e) CONTEMPT.

The issuing court may hold in exceemes a person who, having been surved, falls without adequate excuse to obey the subposes. A nonperty's fallure to obey must be encused if the subposes purposes to require the nonperty to attend or produce at a place entside the limits of Rule 45(c)(3)(A)(li).

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

VIRGINIA HOPPER,)			
Plaintiff,)			
ν.	, ,	Case No.: 2:07-cv0457-MEF		
JACKIE GRAHAM, et al.,)			
Defendants.)			
ATTACHMENT "A"				

You are hereby commanded, at the instance of the **Defendants**, within fifteen (15) days after service of this subpoena:

Rule 45 Subpoens

To produce and permit said parties to inspect and to copy each of the following documents:

- Prom January 1, 2003, to the present date: All records, writings, charts, correspondence, notes, reports of operations, admission summaries, discharge summaries, consultations, nurses' notes, physicians' notes, prescription notes and orders, documents, reports, x-ray reports, photographs, laboratory reports, ER reports, medication sheets, patient histories, test results and/or any and all other materials contained in your file and/or computer database, in your possession or under your control which relate to the care and treatment of and/or to the diagnosis and/or prognosis of any condition or illness of the patient listed below; and
- Any and all invoices or other documents reflecting services rendered to Virginia Hopper, showing the dates of treatment, charge(s) made, amounts paid by the patient and/or any third party, amounts "adjusted" and amounts accepted by you in full satisfaction of the amount charged and any and all third party remittance reports, and/or any other materials contained in your file and/or computer database, in your possession, or under your control which relates to the care and treatment of and/or to the diagnosis and/or prognosis of any condition or illness of the patient listed below:

NAME:

VIRGINIA HOPPER

SSN:

423-74-4190

DOB:

May 6, 1954